

REMARKS

Upon entry of the present amendment, claims 1, 2, 5 and 6 will have been canceled without prejudice or disclaimer of the subject matter thereof. Claim 3 will have been rewritten into independent form and claim 4 will remain depending from claim 3. Claims 7 and 8 will not have been amended. Claim 9 will have been amended while claims 10 and 11 will have been canceled without prejudice or disclaimer of the subject matter thereof.

Initially, Applicant wishes to respectfully thank the Examiner for considering the updated information regarding the co-pending applications previously cited in an Information Disclosure Statement in the present application, that was submitted concurrently with the previously filed response of August 7, 2007.

Applicant additionally notes that concurrently with the filing of the present response, Applicant is filing a Supplemental Information Disclosure Statement bringing to the attention of the Examiner documents cited in a European Search Report. The Supplemental Information Disclosure Statement includes a certification as required by 37 C.F.R. §1.97 (e). Accordingly, consideration of the documents cited in the Supplemental Information Disclosure Statement is respectfully requested and is believed to be appropriate and proper.

In the outstanding Official Action, the Examiner rejected claims 1-11, all the claims then pending in the present application, under 35 U.S.C. § 102(e) as being anticipated by WARKE (U.S. Patent No. 6,566,889). Applicant respectfully traverses the above rejection and submits that it is in appropriate with respect to the combinations of

features recited in the presently pending claims. Accordingly, Applicant respectfully requests reconsideration of the outstanding rejection together with an indication of the allowability of all the claims pending in a present application, in due course. Such action is now believed to be appropriate and proper and is thus respectfully requested, in due course.

Applicant's invention is directed to an ADSL modem apparatus, a communication method for an ADSL modem apparatus and a modem apparatus. Utilizing the features of applicants currently pending claim 3, as a nonlimiting example of Applicant's invention, the present invention is directed to an ADSL modem apparatus which includes an exchange unit that transmits and receives a REVERB signal according to one of ITU standard G. 992.1 and G. 992.2, an estimation unit that estimates a communication distance to an opposing ADSL modem apparatus based on a reception level of the REVERB signal and a communication unit that communicates by concentrating a signal energy into a low frequency band, the signal energy being assigned to a transmission signal according to the communication distance estimated by the estimation unit.

It is respectfully submitted that the combination of features by which Applicant's invention is defined, as set forth in presently pending claim 3, is not taught, disclosed or rendered obvious by the WARKE reference relied upon by the Examiner.

In particular, in setting forth the rejection, the Examiner asserts that the communication unit is disclosed at column 4, lines 20 through 26 of WARKE. Is respectfully submitted that the Examiner is incorrect in his interpretation of the WARKE disclosure.

WARKE is directed to line diagnostics for wireline modems. In particular, WARKE is directed to a modem with built-in transmission line diagnostic capability. The built-in line diagnostics are capable of determining the transmission line's length and detecting the presence of any bridge taps without requiring any specialized hardware.

The portion of WARKE to which the Examiner has directed Applicant's attention merely discloses that the WARKE invention is applicable to both analog and digital modems and that should the modem be an analog modem, and unillustrated in-line filter is needed prior to the modem to prevent high-frequency signals, such as signals from a DSL systems from entering the modem. However, contrary to the Examiner's assertion, this portion of the WARKE disclosure does not in any manner relate to concentrating a signal energy into a low frequency band, where the signal energy is assigned to a transmission signal according to the communication distance estimated by an estimation unit.

While it is of course true that an in-line filter may be used for concentrating signal energy into any frequency band, there is no teaching whatsoever within the WARKE disclosure that the signal energy should be concentrated into a low frequency band, as recited in applicant's claim 3.

Accordingly, it is respectfully submitted that claim 3 is now clearly patentable over the WARKE reference relied upon by the Examiner.

Claim 9 relates to a modem apparatus including an exchanger that transmits a REVERB signal as part of a modem training signal, an estimator that estimates a distance between an opposing modem apparatus and the modem apparatus according to a reception level of the REVERB signal, wherein the exchanger transmits a data signal

according to a power spectrum, the power spectrum being determined on the basis of the distance.

It is respectfully submitted that WARKE does not disclose at least the above noted combination of features as now set forth in applicant's claim 9. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection applied against claim nine 9.

Accordingly, Applicant respectfully requests an indication of the allowability of all of claims 3, 4 and 7-9 now pending in the present application.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he is now done so. Applicant has canceled several claims and has amended several other claims. Additionally, Applicant has thanked the Examiner for considering the updated status information regarding previously cited copending applications and has informed the Examiner of a concurrently filed Information Disclosure Statement.

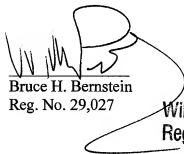
Applicant has discussed the present invention and has contrasted the same with the disclosure of the reference rely upon by the Examiner. Applicant has pointed out the significant and substantial shortcomings of the reference relied upon by the Examiner in the outstanding rejection. Applicant has also discussed the recitations of Applicants claims and with respect to such recitations has noted the deficiencies of the applied reference. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all the claims pending in the present application and respectfully requests an indication to such effect, in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Examiner have any questions or comments regarding the present paper or the present application, the Examiner is respectfully requested to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,

Nobuhiko NOMA et al.

A handwritten signature in black ink, appearing to be "Bruce H. Bernstein", written over a horizontal line.

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